

THE WHITE HOUSE

WASHINGTON

February 6, 1976

NSC REVIEW  
COMPLETED

Executive Registry

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MEMORANDUM FOR:

PHIL BUCHEN  
BILL HYLAND  
DON OGILVIE  
NINO SCALIA  
TOM LATIMER  
MITCH ROGOVIN  
HAL SAUNDERS

FROM:

MASON CARGILL

SUBJECT:

New Draft of the Restrictions Order

Attached is the draft of the Restrictions Executive Order that was agreed to at the drafting session following yesterday's ICG meeting. In a few areas, total agreement was not reached, and I have attempted to solve the problems addressed. In addition, Phil Buchen has suggested addition of sections on missionaries and on torture.

ICG DRAFT - 2/6/76

## EXECUTIVE ORDER

Information about the capabilities, intentions and activities of other governments is essential to informed decision-making in the field of national defense and foreign affairs. The measures employed to acquire such information should be responsive to the legitimate needs of our Government and must be conducted in a manner which preserves and respects our established concepts of privacy and our civil liberties.

Recent events have clearly indicated the desirability of government-wide direction which will ensure a proper balancing of these interests. The rules of operation prescribed by this Order are not intended to derogate from any other laws, regulations or directives further restricting the activities of our foreign intelligence agencies. The provisions of this Order apply to activities both inside and outside the United States.

By virtue of the authority vested in me as President pursuant to my powers under Article II, Sections 2 and 3 of the Constitution, and statute of the United States, including the National Security Act of 1947, and finding such actions necessary in the national interest, it is hereby ordered as follows:

SECTION I: Definitions.

As used in this Order, the following terms shall have the meanings ascribed to them below:

(a) "Collection" means any one or more of the gathering, analysis, dissemination or storage of non-publicly available information without the informed express consent of the subject of the information.

(b) "Electronic surveillance" means acquisition of a non-public communication by electronic means, without the consent of a person who is a party to, or, in the case of a non-electronic communication, visibly present at, the communication.

(c) "Employee" means a person employed by, assigned or detailed to, or acting for a United States foreign intelligence agency.

(d) "Foreign intelligence" means information concerning the capabilities, intentions and activities of any foreign power, or of any non-United States person, whether within or outside the United States, or concerning areas outside the United States.

(e) "Foreign counterintelligence" means information concerning the protection from detection or disclosure of foreign intelligence or of national security information and its collection.

(f) "Foreign intelligence agency" means the Central Intelligence Agency, National Security Agency, Defense Intelligence Agency, and any other department or agency of the United States Government, or component thereof, while it is engaged in the collection of foreign intelligence or foreign counterintelligence, but shall not include any department, agency or component thereof to the extent that it is engaged in its authorized law enforcement functions, nor shall it include in any case the Federal Bureau of Investigation.

(g) "National security information" has the meaning ascribed to it in E. O. 11652.

(h) "Physical surveillance" means continuing visual observation by any means or acquisition of a non-public communication by a person not a party thereto, or visibly present thereat, through any means which does not involve electronic surveillance.

(i) "United States persons" means United States citizens, aliens admitted to the United States for permanent residence and corporations or other organizations incorporated or organized in the United States.

SECTION II. Restrictions on Collection.

Foreign intelligence agencies shall not engage in any of the following activities:

(a) Physical surveillance directed against a United States person, except to the extent that such surveillance is pursuant to procedures approved by the head of the foreign intelligence agency, and is directed against either:

(1) a present or former employee of such agency, its present or former contractors or their present or former employees, for the purpose of protecting foreign intelligence sources or methods or national security information from unauthorized disclosure; or

(2) a United States person, who is in contact with either such a present or former contractor or employee or with a non-United States person who is the subject of a foreign intelligence or foreign counterintelligence inquiry, but only to the extent necessary to identify such United States person; or

(3) a United States person outside the United States who is reasonably believed to be acting on behalf of a foreign power or who is reasonably suspected of engaging in international terrorist or narcotics activities or activities threatening the national security.

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(b) Electronic surveillance involving a communication which is made from, or is intended by the sender to be received in, the United States, or directed against United States persons abroad except in accordance with law and under procedures approved by the Attorney General; provided that the Central Intelligence Agency shall not perform electronic surveillance within the United States;

*— security?  
plane tap*

(c) Unconsented physical searches within the United States; or unconsented physical searches directed against United States persons abroad, except under procedures approved by the Attorney General;

(d) Opening of mail or examination of envelopes of mail in the U. S. Postal channels except in accordance with the provisions of United States law.

(e) Examination of Federal tax returns or tax information except in accordance with United States law.

(f) Infiltration of or undisclosed participation in any organization composed primarily of United States persons for the purpose of reporting on or influencing its activities or members;

(g) Collection of information concerning the domestic activities of United States persons except:

(1) Information concerning corporations or other commercial organizations controlled by foreign powers.

(2) Information concerning present or former employees, present or former contractors or their present or former employees or applicants for such employment or contracting, necessary to protect foreign intelligence sources or methods or national security information from unauthorized disclosure; and the identity of persons in contact with the foregoing or with a non-United States person who is the subject of a foreign intelligence or foreign counterintelligence inquiry.

(3) Information concerning persons who are reasonably believed to be potential sources or contacts, but only for the purpose of determining the suitability or credibility of such persons.

(4) Foreign intelligence information gathered abroad, or from cooperating sources in the United States.

(5) Information about a United States citizen who is reasonably believed to be involved in international terrorist or narcotics activities or working in collaboration with a foreign nation or organization.

(6) Lawful dissemination to the appropriate law enforcement agencies of information incidentally gathered indicating involvement in activities in violation of United States law.

(7) Storage of information required by law to be retained.



SECTION III. Restrictions on Experimentation.

Foreign intelligence agencies shall not engage in experimentation with drugs on human subjects, except with the informed consent, in writing and witnessed by a disinterested third party, of each such human subject and in accordance with the guidelines issued by the National Commission for the Protection of Human Subjects for Biomedical and Behavioral Research. ?

SECTION IV. Assistance to Law Enforcement Authorities.

No foreign intelligence agency shall, except as expressly authorized by law:

(a) Provide services, equipment, personnel or facilities to the Law Enforcement Assistance Administration or to State or local police organizations of the United States.

(b) Participate in or fund any law enforcement activity within the United States.

These prohibitions shall not, however, preclude (i) cooperation between a foreign intelligence agency and appropriate law enforcement agencies for the purpose of protecting the personnel and facilities of

the foreign intelligence agency or preventing espionage or other criminal activity related to foreign intelligence, or (ii) provision of specialized equipment or technical knowledge for use by any other Federal department or agency.

SECTION V. Assignment of Personnel.

Employees of foreign intelligence agencies detailed elsewhere within the Federal Government shall be responsible to the host agency and shall not report to their parent agency on the affairs of the host agency, except as may be directed by the latter. The head of the host agency, and any successor, shall be informed of the detailee's association with the parent agency.

SECTION VI. Law Enforcement Responsibilities.

Nothing in this Order shall limit the law enforcement functions, civil or criminal, of any department, agency, or component thereof, having such responsibilities.

SECTION VII. Implementation.

Each foreign intelligence agency shall, within 90 days, issue internal directives to implement this Order with respect to its foreign intelligence operations.